IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	**CASE NO. 8:10CR16**
	)	
Plaintiff,	)	
	)	
vs.	)	**TENTATIVE FINDINGS**
	)	
ALICIA RODRIGUEZ,	)	
	)	
Defendant.	)	

The Court has received the Revised Presentence Investigation Report ("PSR") and the Defendant's motion for a downward departure (Filing No. 50). The parties have not objected to the PSR. *See* Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker,* 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant's motion alleging overstatement of criminal history is denied insofar as it is made under U.S.S.G. § 5K2.0, because the plea agreement states that a motion may not be made under § 5K2.0. However, the motion will be heard insofar as it relies on U.S.S.G. § 4A1.3.

IT IS ORDERED:

1.   The parties are notified that my tentative findings are that the PSR is correct in all respects;

2.   If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary

hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final;

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

5. The Defendant's motion for a downward departure (Filing No. 50) will be heard at sentencing.

DATED this 20th day of June, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge